

AMENDED IN SENATE JUNE 22, 2016

AMENDED IN ASSEMBLY MAY 12, 2016

AMENDED IN ASSEMBLY APRIL 25, 2016

AMENDED IN ASSEMBLY APRIL 12, 2016

AMENDED IN ASSEMBLY MARCH 16, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

**No. 2148**

---

**Introduced by Assembly Member Holden**

February 17, 2016

---

An act to *amend Section 3003.5 of, and to add Section 714.5 to Sections 1746 and 2001.5 to*, the Fish and Game Code, and to add Article 4 (commencing with Section 5085) to Chapter 1.2 of Division 5 of the Public Resources Code, relating to unmanned aircraft systems.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2148, as amended, Holden. Unmanned aircraft systems: ~~regulation; managed lands or waters: take of fish and wildlife.~~

Existing federal law, the Federal Aviation Administration Modernization and Reform Act of 2012, provides for the integration of civil and public unmanned aircraft systems, commonly known as drones, into the national airspace system. Existing law establishes both the Department of Fish and Wildlife and the Department of Parks and Recreation in the Natural Resources Agency. A violation of any rule or regulation made or adopted by the Department of Fish and Wildlife pursuant to the Fish and Game Code is a misdemeanor. A violation of the rules and regulations established by the Department of Parks and

Recreation to protect the state park system is punishable as either a misdemeanor or an infraction.

~~This bill would require, on or before January 1, 2018, the Department of Fish and Wildlife and the Department of Parks and Recreation to develop regulations governing the launching, landing, or ground-based operation of unmanned aircraft systems, commonly known as drones, from or on the public lands and waters managed by each department. In developing the regulations, the bill would require these state departments to address, among other things, protecting wildlife from unnecessary harassment or disturbance and protecting the natural, cultural, and historic values of state lands. Because violations of these regulations could be crimes, the bill would impose a state-mandated local program.~~

*This bill would make it unlawful for any person to launch, land, or operate an unmanned aircraft system from Department of Fish and Wildlife and Department of Parks and Recreation managed lands or waters, except as authorized by these departments, or unless exempted from this prohibition. The bill would authorize the departments to consider certain factors when reviewing a request for the departments' authorization for the use of an unmanned aircraft system.*

*The bill would also make it unlawful to use an unmanned aircraft system to take, or assist in the take of, fish or wildlife, including, but not limited to, the use of unmanned aircraft systems for scouting purposes. The bill would provide that an unmanned aircraft system is a motorized air vehicle within the meaning of a certain existing prohibition and thus under that prohibition may not be used to pursue, drive, or herd any bird or mammal, except as specified.*

*Because violations of the provisions of the bill would be crimes, the bill would impose a state-mandated local program.*

The bill would provide that *certain of its provisions are severable and do not apply to the operation of an unmanned aircraft system by any person who the Federal Aviation Administration authorizes to operate a remote piloted aircraft for a commercial purpose and who operates it in a manner that complies with that authorization.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 714.5 is added to the Fish and Game~~  
2     ~~Code, to read:~~  
3     ~~714.5. (a) On or before January 1, 2018, the Department of~~  
4     ~~Fish and Wildlife shall develop regulations governing the~~  
5     ~~launching, landing, or ground-based operation of unmanned aircraft~~  
6     ~~systems, commonly known as drones, from or on the public lands~~  
7     ~~and waters managed by the department.~~  
8     ~~(b) In developing regulations pursuant to subdivision (a), the~~  
9     ~~department shall address all of the following:~~  
10    ~~(1) Protecting wildlife from unnecessary harassment or~~  
11    ~~disturbance.~~  
12    ~~(2) Protecting sensitive species, including those listed as~~  
13    ~~threatened or endangered, or that have other protected status.~~  
14    ~~(3) Protecting wildlife at times of the year where incidents may~~  
15    ~~have disproportionate effects, including, but not limited to, during~~  
16    ~~nesting, breeding, gestation, and migration seasons.~~  
17    ~~(4) Protecting the natural, cultural, and historic values of state~~  
18    ~~lands.~~  
19    ~~(5) Permitting the appropriate use of unmanned aircraft systems~~  
20    ~~for conservation and scientific research purposes.~~  
21    ~~(6) Ensuring that unmanned aircraft systems are not operated~~  
22    ~~in a careless or reckless manner, including ensuring that operators~~  
23    ~~adhere to visual line-of-sight practices.~~  
24    ~~(c) In developing the regulations, the department shall allow de~~  
25    ~~minimis access by adjacent landowners for agricultural purposes.~~  
26    ~~(d) This section does not apply to the operation of an unmanned~~  
27    ~~aircraft system by any person who the Federal Aviation~~  
28    ~~Administration authorizes to operate a remote piloted aircraft for~~  
29    ~~a commercial purpose and who operates it in a manner that~~  
30    ~~complies with that authorization.~~  
31    ~~(e) The provisions of this section are severable. If any provision~~  
32    ~~of this section or its application is held invalid, that invalidity shall~~  
33    ~~not affect other provisions or applications that can be given effect~~  
34    ~~without the invalid provision or application.~~

1     SECTION 1. Section 1746 is added to the Fish and Game Code,  
2     to read:

3     1746. (a) It shall be unlawful for any person to launch, land,  
4     or operate an unmanned aircraft system from department managed  
5     lands, as defined in Section 1745, except as authorized by the  
6     department, or unless otherwise exempted from this section.

7     (b) In reviewing a request for department authorization for the  
8     use of an unmanned aircraft system, the department may consider  
9     any of the following:

10    (1) Protecting wildlife and visitors from unnecessary harassment  
11    or disturbance.

12    (2) Harm to sensitive species, including those listed as  
13    threatened or endangered, or that have other protected status.

14    (3) Disruption to wildlife at times of the year where incidents  
15    may have disproportionate effects, including, but not limited to,  
16    during nesting, breeding, gestation, and migration seasons.

17    (4) The natural, cultural, and historic value of the  
18    department-managed land.

19    (5) The purpose of the department-managed land.

20    (6) Operation of an unmanned aircraft system in a careless or  
21    reckless manner, including an operator's failure to adhere to visual  
22    line-of-sight practices.

23    (7) Other special purposes as approved by the department.

24    (c) The prohibition in subdivision (a) does not apply to any of  
25    the following:

26    (1) The appropriate use of unmanned aircraft systems for  
27    conservation and scientific research purposes.

28    (2) De minimis access by adjacent landowners for agricultural  
29    purposes.

30    (3) Legitimate news gathering activity by a person described  
31    in Section 1070 of the Evidence Code.

32    (d) This section does not apply to the operation of an unmanned  
33    aircraft system by any person who the Federal Aviation  
34    Administration, whether by permit, license, rule, or regulation,  
35    authorizes to operate a remote piloted aircraft for a commercial  
36    purpose and who operates it in a manner that complies with that  
37    authorization.

38    (e) The provisions of this section are severable. If any provision  
39    of this section or its application is held invalid, that invalidity shall

1 *not affect other provisions or applications that can be given effect*  
2 *without the invalid provision or application.*

3 *SEC. 2. Section 2001.5 is added to the Fish and Game Code,*  
4 *to read:*

5 *2001.5. It shall be unlawful to use an unmanned aircraft system*  
6 *to take, or assist in the take of, fish or wildlife, including, but not*  
7 *limited to, the use of unmanned aircraft systems for scouting*  
8 *purposes.*

9 *SEC. 3. Section 3003.5 of the Fish and Game Code is amended*  
10 *to read:*

11 3003.5. It is unlawful to pursue, drive, or herd any bird or  
12 mammal with any motorized water, land, or air vehicle, including,  
13 but not limited to, a motor vehicle, airplane, *unmanned aircraft*  
14 *system*, powerboat, or snowmobile, except in any of the following  
15 circumstances:

16 (a) On private property by the landowner or tenant thereof to  
17 haze birds or mammals for the purpose of preventing damage by  
18 that wildlife to private property.

19 (b) Pursuant to a permit from the department issued under  
20 regulations as the commission may prescribe.

21 (c) In the pursuit of agriculture.

22 ~~SEC. 2:~~

23 *SEC. 4. Article 4 (commencing with Section 5085) is added*  
24 *to Chapter 1.2 of Division 5 of the Public Resources Code, to read:*

25  
26 Article 4. Unmanned Aircraft Systems

27  
28 ~~5085. (a) On or before January 1, 2018, the Department of~~  
29 ~~Parks and Recreation shall develop regulations governing the~~  
30 ~~launching, landing, or ground-based operation of unmanned aircraft~~  
31 ~~systems, commonly known as drones, from or on the public lands~~  
32 ~~and waters managed by the department.~~

33 ~~(b) In developing regulations pursuant to subdivision (a), the~~  
34 ~~department shall address all of the following:~~

35 ~~(1) Protecting wildlife from unnecessary harassment or~~  
36 ~~disturbance.~~

37 ~~(2) Protecting sensitive species, including those listed as~~  
38 ~~threatened or endangered, or that have other protected status.~~

~~(3) Protecting wildlife at times of the year where incidents may have disproportionate effects, including, but not limited to, during nesting, breeding, gestation, and migration seasons.~~

~~(4) Protecting the natural, cultural, and historic values of state lands.~~

~~(5) Permitting the appropriate use of unmanned aircraft systems for conservation and scientific research purposes.~~

~~(6) Ensuring that unmanned aircraft systems are not operated in a careless or reckless manner, including ensuring that operators adhere to visual line-of-sight practices.~~

~~(e) In developing the regulations, the department shall allow de minimis access by adjacent landowners for agricultural purposes.~~

~~(d) This section does not apply to the operation of an unmanned aircraft system by any person who the Federal Aviation Administration authorizes to operate a remote piloted aircraft for a commercial purpose and who operates it in a manner that complies with that authorization.~~

~~(e) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.~~

*5085. (a) It shall be unlawful for any person to launch, land, or operate an unmanned aircraft system from Department of Parks and Recreation managed lands or waters, except as authorized by the department, or unless otherwise exempted from this article.*

*(b) In reviewing a request for department authorization for the use of an unmanned aircraft system, the department may consider any of the following:*

*(1) Protecting wildlife and visitors from unnecessary harassment or disturbance.*

*(2) Harm to sensitive species, including those listed as threatened or endangered, or that have other protected status.*

*(3) Disruption to wildlife at times of the year where incidents may have disproportionate effects, including, but not limited to, during nesting, breeding, gestation, and migration seasons.*

*(4) The natural, cultural, and historic value of the managed land or water.*

*(5) The purpose of the department managed land or water.*

1     (6) *Operation of an unmanned aircraft system in a careless or*  
2 *reckless manner, including an operator's failure to adhere to visual*  
3 *line-of-sight practices.*

4     (7) *Other special purposes as approved by the department.*

5     (c) *The prohibition in subdivision (a) does not apply to any of*  
6 *the following:*

7         (1) *The appropriate use of unmanned aircraft systems for*  
8 *conservation and scientific research purposes.*

9         (2) *De minimis access by adjacent landowners for agricultural*  
10 *purposes.*

11         (3) *Legitimate news gathering activity by a person described*  
12 *in Section 1070 of the Evidence Code.*

13     (d) *This section does not apply to the operation of an unmanned*  
14 *aircraft system by any person who the Federal Aviation*  
15 *Administration, whether by permit, license, rule, or regulation,*  
16 *authorizes to operate a remote piloted aircraft for a commercial*  
17 *purpose and who operates it in a manner that complies with that*  
18 *authorization.*

19     (e) *The provisions of this section are severable. If any provision*  
20 *of this section or its application is held invalid, that invalidity shall*  
21 *not affect other provisions or applications that can be given effect*  
22 *without the invalid provision or application.*

23     ~~SEC. 3.~~

24     SEC. 5. No reimbursement is required by this act pursuant to  
25 Section 6 of Article XIII B of the California Constitution because  
26 the only costs that may be incurred by a local agency or school  
27 district will be incurred because this act creates a new crime or  
28 infraction, eliminates a crime or infraction, or changes the penalty  
29 for a crime or infraction, within the meaning of Section 17556 of  
30 the Government Code, or changes the definition of a crime within  
31 the meaning of Section 6 of Article XIII B of the California  
32 Constitution.